



**DEPUTY COMMISSIONER FOR FUNDAMENTAL RIGHTS
OMBUDSMAN FOR THE RIGHTS OF NATIONAL MINORITIES**

**Joint Report by the Commissioner for Fundamental Rights and the Deputy
Commissioner for the Protection of the Rights of Nationalities in Hungary on the
conflict of interest rules applicable to the representatives of nationality self-governments**

**Case AJB-1358/2022
(Follow-up of case AJB-938/2014)**

SUMMARY

The late president of an association of members of the Ruthenian nationality community in Hungary, with reference to being a member of the Ruthenian nationality, has petitioned the Minority Ombudsman about the contradictions in the conflict of interest rules for nationality representatives of nationality self-governments. He indicated that, in his opinion, the fundamental rights anomalies identified in a previous joint report, launched on the basis of his petition, on a similar matter in case No. AJB-938/2014 still persist.

He complained that, as a government official of a county government office, working in the veterinary field as a county chief veterinarian, he was not allowed to participate in the work of the municipal, regional and national-level self-governments of the Ruthenian nationality community as a chairman, deputy chairman or representative, due to the contradictory or incomplete legal regulations on conflict of interest. In fact, as a government official of the county government office, he could not be the president or deputy president of a local nationality self-government, the president or deputy president of a nationality self-government, or a representative of a nationality self-government at any level, even though, as a government official, he was not responsible for matters concerning the nationality self-government concerned.

In view of the suspicion of an irregularity about fundamental rights raised by the complaint, the Commissioner for Fundamental Rights and the Minority Ombudsman opened an investigation into the case. In the framework of the investigation, the Minister of Justice was contacted who held professional consultations with the Prime Minister's Government Office and the Prime Minister's Office.

The Commissioner and the Minority Ombudsman noted in their joint report that in addition to the special provisions of the Act CLXXIX of 2011 on the Rights of Nationalities (Njtv.), the Act CXXV of 2018 on Government Administration (Kit.) also contains provisions on conflict of interest issues. At present, the Kit. provides for a broader and more applicable, stricter regulation, which is not in line with the provisions of the Njtv. on conflict of interest. The Njtv. contains more specific, clearer rules and only declares the conflict of interest of the government official whose duties include matters concerning the nationality self-government.

According to the position expressed in the joint report, the regulation that provides for the restriction or termination of participation in the operation of local or national-level nationality self-government in the case of employment as a government official in any territorial government administration is unjustified and incompatible with the original purpose of the conflict of interest regulation, and it also opposes the right of members of nationality communities to hold public office with the right to nationality self-governance.

The Commissioner and the Minority Ombudsman stressed that, in the light of Article XXIX (3) of the Fundamental Law, the Njtv. contains detailed rules concerning the rights of nationalities, including rules on conflicts of interest.

Consequently, it was concluded that in the case of conflict of interest of nationality representatives, the special rules of the Njtv. should be applied against the provisions of the Kit.

In the case of a specific conflict of interest, the only issue to be examined is whether or not the government official's duties include matters concerning the nationality self-government in question. In the view of the Commissioner and his deputy, if the government official does not have to deal with matters concerning the nationality self-government concerned, he or she should be allowed to become the president, vice-president or representative of a national minority self-government, whether at local or national level.

The Minister of Justice's briefing also confirmed the lack of regulatory consistency and the need to amend the relevant provisions of the Kit.

In view of the above, the Commissioner and Minority Ombudsman found that the Kit. and the Njtv. currently in force creates an anomaly in the context of the **fundamental principle of legal certainty deriving from the rule of law**. In addition, the regulation also entails a **direct risk of abuse in connection with the right to self-government** and the **right to hold public office**.

In their joint report, they stressed that due to the inadequacy of the legal regulation, the nationality communities in Hungary may lose the opportunity to be represented in a real way, and therefore, in their opinion, it is necessary to clarify the rules on the conflict of interest of the representatives of nationality self-governments.

The Commissioner for Fundamental Rights and the Minority Ombudsman have **asked the Minister of Justice to take the** necessary measures to amend the rules on conflict of interest in the Kit. in order to eliminate the anomalies related to fundamental rights and constitutional principles identified in the joint report, in order to ensure consistency with the provisions of the Act on the Rights of Nationalities, thus promoting the full enforcement of nationality rights.